THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19838 of 1999

ORDER:

This writ petition is filed seeking Certiorari to set aside the order of the first respondent in G.O.Rt.No.976 dated 26.8.1999 confirming the sale order passed by the second respondent in C.E.P.No.159/97-98 dated 23.10.1998 and quash the same.

It is the case of the petitioner that he is the owner of premises bearing No.19/30 of Rajahmundry, which is the subject matter of C.E.P.No.159/97-98 on the file of the second respondent. The total amount due and payable is about Rs.89,000/-. The third respondent brought the above property for sale under the provisions of A.P. Cooperative Societies Act, 1964 without following the procedure prescribed therein by violating the principles of natural justice at the instance of fifth respondent, who is the neighbour of the petitioner. Auction was held on 27.8.1998. The petitioner filed application to set aside the sale on various grounds by depositing the decretal amount, costs and interest upto date along with 5% of purchase money as required under the rules within 30 days. But in spite of the same, the fourth respondent conducted sale of the property contrary to Rule 52 of the A.P. Cooperative Societies Rules, 1964, which was also confirmed by the respondents 1 and 2 through impugned orders. Hence the writ petition.

A detailed counter affidavit has been filed by third respondent-Bank denying the allegations of the petitioner. It is stated that the petitioner has no interest in the properties, which were sold in auction as he left Rajahmundry nearly two years back and all the litigation are being managed by the tenant of the petitioner, who has no locus standi to maintain these cases. The orders passed by the respondents 1 and

2 are perfectly valid, justified and unassailable. There are no valid and legal grounds for setting aside the same. The petitioner withdrew the amount deposited by him as per Rule 52 (I) (a)(b), therefore, the authorities have dismissed the application for setting aside the sale. The averment that the amounts paid through demand drafts were withdrawn for the purpose of revalidation is denied as false and incorrect. Even assuming, the said statement is correct, nothing prevented the petitioner to re-deposit the amount after revalidation. Since the petitioner withdrew the amounts deposited by him, the first respondent dismissed his revision.

Even otherwise, at the time of admission of the writ petition, this Court granted conditional stay by order dated 22.9.1999, which reads as under:

> "Stay for delivery of property for one week provided the petitioner deposits the whole amount of decree within one week. If the amount is not deposited within one week, the stay shall stand vacated. Otherwise, the stay shall remain in force for two weeks. List after one week".

When the matter had come up on 7.12.1999, it was noticed that the petitioner failed to deposit the decretal amount within the stipulated time as ordered by this Court on 22.9.1999 and therefore, the order itself worked out and ceased to be in operation.

The learned counsel for third respondent-Bank submits that thereafter, the fifth respondent was put in possession of the property by following the procedure required under law and nothing remains for adjudication in this writ petition.

In view of the above, I am of the opinion that the writ petition is liable to be dismissed and accordingly dismissed. However, the petitioner is at liberty to withdraw the remaining auction amount kept

under suspense account without furnishing any security. There shall be no order as to costs.

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C.V.RAMULU,
J

Date: 24.7.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19838 of 1999

24.7.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19838 of 1999

Dated: 24th July, 2006

Between:

Harish Chand Rajpal

.. Petitioner

and

Government of Andhra Pradesh,
represented by Secretary,
Agriculture & Cooperation (Coop-III), Secretariat,
Hyderabad & others.

.. Respondents